

IN THE MATTER OF	*	BEFORE THE STATE
FEDERICK W. BURROWS, JR., D.D.S.	*	BOARD OF DENTAL
RESPONDENT	*	EXAMINERS
LICENSE NUMBER: 5184	*	CASE NUMBER: 2007-178
	*	

* * * * *

FINAL CONSENT ORDER

The State Board of Dental Examiners (the "Board") charged Frederick W. Burrows, Jr., D.D.S. ("Respondent"), DOB: 08/17/1944, license number: 5184, under the Maryland Dentistry Act, Md. Health Occ. ("H.O.") Code Ann. §§ 4-101 *et seq.* (Repl. Vol. 2009). Specifically, the Board charges the Respondent with violating the following provisions:

H.O. § 4-315. Denials, reprimand, probations, suspensions, and revocations – Grounds.

- (a) *License to practice dentistry.* - Subject to the hearing provisions of § 4-318 of this subtitle, the Board may deny a general license to practice dentistry, a limited license to practice dentistry, or a teacher's license to practice dentistry to any applicant, reprimand any licensed dentist, place any licensed dentist on probation, or suspend or revoke the license of any licensed dentist, if the applicant or licensee:

(11) Permits an unauthorized individual to practice dentistry under the supervision of the applicant or licensee;

(16) Behaves dishonorably or unprofessionally, or violates a Professional code of ethics pertaining to the dentistry profession;

(18) Violates any rule or regulation adopted by the Board.

H.O. § 4-601 Practicing without license; aiding or abetting unauthorized practice.

(a) Except as otherwise provided in this title, a person may not practice, attempt to practice, or offer to practice dentistry or dental hygiene on a human being in this State unless licensed by the Board.

Code Md. Regs. tit. 10, § 44.01 Dental Assistants

.02 Exceptions.

A. Notwithstanding any other provisions of this chapter, a dental assistant may provide the following dental assisting duties under the general supervision of a dentist for a dental sealant program:

- (1) Instructing on oral hygiene;
- (2) Cleaning and disinfecting environmental surfaces and equipment;
- (3) Preparing materials for the application of sealants;
- (4) Retracting lips, cheek, and tongue;
- (5) Placing and removing materials for the isolation of the dentition, if the material is not retained by the dentition;
- (6) Transferring instruments and sealants to a dentist or dental hygienist;
- (7) Rinsing and aspirating of the oral cavity; and
- (8) Sterilizing instruments.

B. Under general supervision of a dentist, a dental assistant may only perform the duties enumerated in §A of this regulation:

- (1) For a facility that has been granted a waiver of on-site supervision for a dental hygienist under COMAR 10.44.21; and
- (2) While assisting a dental hygienist who has received a waiver of on-site supervision under COMAR 10.44.21.

C. A dental assistant who provides dental assistant duties under this regulation shall maintain cardiopulmonary resuscitation certification from one of the following programs:

- (1) The American Heart Association's Basic Life Support for Healthcare Providers;

(2) The American Red Cross's Cardiopulmonary Resuscitation for Professional Rescuers; or

(3) An equivalent program approved by the Board.

D. A dental assistant who provides dental assistant duties under this regulation shall have at least 400 hours of dental assisting clinical practice in direct patient care

Code Md. Regs tit. 10, § 44.19

.02 Certification Required.

An individual shall be currently certified by the Board as a dental radiation technologist before the individual may practice radiation technology on a human being in this State.

FINDINGS OF FACT

The Board finds that:

1. The Respondent is licensed to practice dentistry in the State of Maryland initially receiving his license on July 17, 1972.

2. The Respondent owns and operates a dental practice located at 5960 Frederick Crossing Lane, Frederick, Maryland.

3. On or about January 22, 2007, the Board received a complaint that the Respondent was allowing his dental assistants to perform dental adjustments and take radiographs without being certified.

4. An investigation by the Board revealed that the Respondent allowed his dental assistants, A and B to take radiographs.¹

5. At all times relevant herein, A and B were not certified by the Board to take radiographs.

¹ In order to protect their identity, the names of A and B have not been disclosed.

6. By allowing uncertified dental assistants to take radiographs, the Respondent violated H.O. § 4-315(a) (11), (16), (18) and § 4-601 and the regulations thereunder.

CONCLUSIONS OF LAW

Based on the foregoing Finding of Fact, the Board concludes that the Respondent permitted unauthorized individuals to practice dentistry under the supervision of the applicant or licensee, in violation of H.O § 4-315(a) (11), (16), (18), H.O. § 4-601 and the regulations thereunder.

ORDER

Based on the foregoing Findings of Fact and Conclusions of Law, it is this 19th day of May 2010, the Board, by a majority of the quorum of the Board, hereby

ORDERED that the Respondent's license to practice dentistry is **SUSPENDED** for a period of **one (1) year** and said suspension is hereby **STAYED**; and it is further

ORDERED that the Respondent shall be placed on **PROBATION** for period of two (2) years subject to the following conditions:

1. **Pro-Bono Dental Service**

The Respondent shall perform, without remuneration, forty (40) hours of *pro bono* dental services that are pre-approved by the Board. Upon completion on the forty (40) hours of *pro bono* dental services, the Respondent shall file a written report with the Board verifying that he performed the required *pro bono dental* services and describing with particularity, the

professional services rendered. If requested by the Board, the Respondent shall make available for review records of the treatment for each *pro bono* dental service provided.

2. Donation

The Respondent shall make an anonymous donation in the amount of two thousand five hundred dollars (\$2,500.00), payable to a Board approved charitable entity. The Respondent shall submit a copy of the letter transmitting the anonymous donation and payment confirmation (e.g. carbon copy of money order or check) to the Board within sixty (60) days of the date that this Order is signed by the Board.

3. Maryland Law Examination

The Respondent shall take the Maryland Law Examination within ninety (90) days of the date that this Order is signed by the Board. The Respondent shall obtain a grade of at least a ninety percent (90%), without using any reference materials, books or other aids whatsoever (i.e., "closed book"). The Respondent may retake the examination if he does not attain a score of at least ninety percent (90%). Respondent's failure to obtain a ninety percent (90%) score after three attempts shall constitute a violation of his probation and shall result in the immediate suspension of the Respondent license, until such time as the Respondent successfully completes the

examination, closed book, with at least a ninety percent (90%).

4. Affidavit

The Respondent shall provide to the Board within sixty (60) days of the date that this Order is signed by the Board signed, (or within 30 days of the date of hire of any new employee), a Board-approved document signed by each employee verifying that they have read, reviewed, and understand the law and regulations delineating what duties they are legally permitted to perform under the Maryland Dentistry Act. A copy of the applicable law and regulations, Md. Health Occ. Code Ann. §§ 4-101, *et seq.* shall be attached to each signed document; and it is further

ORDERED that, if the Board receives a report that the Respondent has violated the Act or if the Respondent violates any term or condition of this Order, after providing the Respondent with notice and an opportunity for a hearing, the Board may take further disciplinary action against the Respondent, including suspension or revocation. The burden of proof for any action brought against the Respondent as a result of a breach of the conditions of the Order or of probation shall be on the Respondent to demonstrate compliance with the Order or conditions; and it is further

ORDERED that the Respondent shall practice in accordance with the laws and regulations governing the practice dentistry in Maryland; and it is further

ORDERED that, at the end of the probationary period, the Respondent may file a

written petition with the Board to be reinstated without any conditions or restrictions on his license, provided that he can demonstrate compliance with this Order. Should the Respondent fail to demonstrate compliance with this Order, the Board may impose additional terms and conditions of probation, as it deems necessary; and it is further


ORDERED that the Respondent shall be responsible for all costs incurred under this order, and it is further

ORDERED that the effective date of this order is the date that it is signed by the Board; and it is further

ORDERED that for purposes of public disclosure and as permitted by Md. State Govt. Code Ann. § 10-617(h) (Repl. Vol. 2009), this document consists of the contents of the foregoing findings of fact, conclusions of law, and order, and is reportable to any entity to whom the Board is obligated to report; and it is further

ORDERED that this order is a public document pursuant to Md. State Govt. Code Ann. §§ 10-601 et seq. (Repl. Vol. 2009).

5/19/10
Date



Jane S. Casper, R.D.H., President
State Board of Dental Examiners

CONSENT OF FREDERICK W. BURROWS, Jr., D.D.S.

I, Frederick W. Burrows, Jr., D.D.S., by affixing my signature hereto, acknowledge that:

1. I am represented by Conrad W. Varner, Esquire.
2. I am aware that I am entitled to a formal evidentiary hearing before the Board, pursuant to Md. Health Occ. Code Ann. § 4-318 (Repl. Vol. 2009) and Md. State Govt. Code Ann. §§ 10-201 *et seq.* (Repl. Vol. 2009).
3. I acknowledge the validity and enforceability of this Consent Order as if entered after a formal evidentiary hearing in which I would have had the right to counsel, to confront witnesses, to give testimony, to call witnesses on my own behalf, and to all other substantive and procedural protections provided by law. I am waiving those procedural and substantive protections.
4. I voluntarily enter into and consent to the foregoing findings of fact, conclusions of law, and order and agree to abide by the terms and conditions set forth herein, as a resolution of the Board's case, based on the findings set forth herein.
5. I waive my right to contest the findings of fact and conclusions of law, and I waive my right to a full evidentiary hearing, and any right to appeal this Consent Order as set forth in Md. Health Occ. Code Ann. § 4-319 (Rep. Vol. 2009) and Md. State Govt. Code Ann. §§ 10-201 *et seq.* (Rep. Vol. 2009).
6. I acknowledge that by failing to abide by the terms and conditions set forth in this Consent Order, and, following proper procedures, I may be subject to disciplinary action, which may include revocation of my license to practice dentistry in the State of Maryland.

From: "Rosemary Rodriguez" <RRodriguez@VerifPoint.com>
To: <mccameya@dhmh.state.md.us>
Date: 4/1/2010 1:59 pm
Subject: Harold Goldberg, DDS

Hi Alexi,

Please send any information you have for Dr. Goldberg regarding the Surrender status on his license.

HAROLD L GOLDBERG _
License Information

Profession:	Dental	License Number:	2524
Issue Date:	6/24/1948	License Type:	DENTIST
License Status:	Voluntary Surrender	Expiration Date:	6/30/2000
		Date of Last Renewal:	6/30/1998

Thank you,

Rosemary Rodriguez
Credentialing Coord.
VerifPoint/Credentialing Solutions
23721 Birtcher Drive
Lake Forest, CA 92630
(888) 273-3368
(949) 900-6270
RRodriguez@VerifPoint.com

Harold L. Goldberg, DDS
7501 Liberty Road
Baltimore, Maryland 21207

Kathleen Geipe, DDS, President
Board of Dental Examiners
Benjamin Rush Building
Spring Grove Hospital Center
Wade Ave.
Baltimore, Maryland 21228

Re: Surrender of Dental License
License Number: 2524
Case Number: 2000-120

Dear Dr. Geipe and Members of the Board:

Please be advised that as of the effective date of this Letter, March 15, 2000, I have decided to surrender my license to practice dentistry in the State of Maryland, License Number 2524 (D.O.B. 12-14-25). I understand that I may not give dental advice or treatment to any individual, with or without supervision and/or compensation, cannot prescribe medications or otherwise engage in the practice of dentistry as it is defined in the Maryland Dentistry Act (the "Act"), Md. Code Ann., Health Occ. ("H.O.") §4-101, *et seq.* In other words, as of the effective date of this Letter of Surrender, I understand that the surrender of my license means that I am in the same position as an unlicensed individual.

I understand that this Letter of Surrender is a public document.

My decision to surrender my license to practice dentistry in the State of Maryland has been prompted by my age, by my decision to retire, and an investigation of my dental practice by the Board which has resulted in the current Summary Suspension Order, and the allegations contained therein. The investigation revealed deficiencies in my dental practice with respect to a failure to comply with the Centers for Disease Control's Guidelines on universal precautions. The Board's investigation resulted in the issuance of the Summary Suspension Order dated March 15, 2000, which is incorporated herein.

I do not admit to, nor do I deny that the Board has a sufficient basis for finding the allegations in the Summary Suspension Order however, I waive any right to contest the underlying investigation or any findings the Board made in connection with the underlying investigation as referenced therein.

Letter to Dr. Geipe and Members of the Board

Re: Harold Goldberg, DDS.

Surrender of Dental License

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I affirm that I was served with a copy of the Summary Suspension documents and have otherwise been advised of the Board's actions through communications with representatives of the Board, including Assistant Attorney General, Kimberly S. Cammarata.

I have decided to surrender my license to practice dentistry in Maryland to avoid further prosecution resulting from the aforementioned investigation and based on my decision to retire from the practice of dentistry. In so agreeing, the Board will not proceed on a prosecution of this matter nor will it file charges as a result of the allegations contained in the March 15, 2000 Order for Summary Suspension. I wish to make clear that I have voluntarily, knowingly and freely chosen to submit this Letter of Surrender to avoid prosecution resulting from the aforementioned investigation and because of my decision to retire. With respect to proceedings involving the Board only, I understand that by executing this Letter of Surrender, I am waiving any right to contest these findings in a formal evidentiary hearing at which I would have had the right to counsel, to confront witnesses, to give testimony, to call witnesses on my own behalf and to all other substantive and procedural protections provided by law, including the right to appeal.

I hereby affirm that I terminated my dental practice on March 6, 2000, as a result of the Summary Suspension Order and have not practiced dentistry since that date. I also affirm that I have no active privileges at any hospital, outpatient surgical facility, nursing home or other health care facility in the State of Maryland. I also affirm that I am not licensed to practice dentistry in any other state.

I affirm that I have no current Maryland Controlled Dangerous Substances Registration Certificate, and no current United States Drug Enforcement Administration ("DEA") Certificate for the State of Maryland.

I acknowledge that on or before March 15, 2000, I will present to the Board my Maryland dental license, number 2524 including any renewal certificates, as well as all prescription forms or pads.

I understand that the Board will advise the National Practitioners' Data Bank and any other entities to which the Board is required to report by law of this Letter of Surrender, and in any response to inquiry, that I have surrendered my license in lieu of further possible disciplinary action under the Act and as a result of my decision to retire from the practice of dentistry. I also understand that, in the event that I would apply for licensure in any form in any other state or jurisdiction, that this Letter of Surrender, and all underlying documents, may be released or published by the Board to the same extent as a final order that would result from disciplinary

Letter to Dr. Geipe and Members of the Board

Re: Harold Goldberg, DDS.

Surrender of Dental License

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action pursuant to Md. Code Ann., State Gov't §10-611 *et seq.*

I further recognize and agree that by agreeing to this Letter of Surrender that my license will remain surrendered forever. In other words, I agree never to apply for reinstatement of my license in the State of Maryland. In the event that I violate the terms of this letter and apply for reinstatement of my Maryland dental license or for the issuance of a new Maryland dental license, I understand that the Board may deny such application based solely on the findings of facts and conclusions of law contained in the Summary Suspension Order dated March 15, 2000.

I acknowledge that I may not rescind this Letter of Surrender in part or in its entirety for any reason whatsoever. Finally, I wish to make clear that I have consulted with my attorney, Harry Rifkin, Esquire regarding the proceedings before the Board and have freely and voluntarily, of my own decision and volition, chosen to execute this letter. I understand both the nature of the Board's actions and this Letter of Surrender fully. I acknowledge that I understand and comprehend the language, meaning and terms and effect of this Letter of Surrender. I make this decision knowingly and voluntarily.

Sincerely,

A handwritten signature in cursive script, appearing to read "Harold L. Goldberg".

Harold L. Goldberg, DDS

IN THE MATTER OF

HAROLD L. GOLDBERG, D.D.S.

License No. 2524

Respondent

BEFORE THE

STATE BOARD OF

DENTAL EXAMINERS

Case No. 2000-120

* * * * *

AMENDED ORDER FOR SUMMARY SUSPENSION

On March 6, 2000, the Maryland State Board of Dental Examiners ("the Board") hereby summarily suspends the license to practice dentistry of Harold I. Goldberg, D.D.S. ("Respondent"), License Number 2524, pursuant to the Maryland Dentistry Act ("the Act"), codified at Md. Code Ann., Health Occ. ("HO") §§ 4-101 et seq. (1994 Repl. Vol. and 1999 Supp.), and Md. Code Ann., State Gov't ("SG") § 10-226(c)(2) (1999 Repl. Vol.). On March 15, 2000, the Board voted to issue this Amended Order for Summary Suspension.

The pertinent provisions of HO § 4-315(a), and those under which the allegations which formed the basis of the Summary Suspension, are as follows:

(a) License to practice dentistry. — Subject to the hearing provisions of § 4-318 of this subtitle, the Board may . . . reprimand any licensed dentist, place any licensed dentist on probation, or suspend or revoke the license of any licensed dentist, if the . . . licensee:

(6) Practices dentistry in a professionally incompetent manner or in a grossly incompetent manner, [or]

(28) Except in an emergency life-threatening situation where it is not feasible or practicable, fails to comply with the Centers for Disease Control's guidelines on universal precautions [.]

The applicable section of SG § 10-226(c)(2) provides that:

(2) A unit may order summarily the suspension of a license if the unit:

(1) finds that the public health, safety, or welfare imperatively

requires emergency action; and

(ii) promptly gives the licensee:

1. written notice of the suspension, the finding, and the reasons that support the finding; and
2. an opportunity to be heard.

INTRODUCTION

The Centers for Disease Control ("CDC") is a federal agency dedicated to designing protocols to prevent the spread of disease. The CDC has issued guidelines for dental offices that detail the procedures deemed necessary to minimize the chance of infection, both from one patient to another, and from the dentist's staff to the patient. These guidelines include some very basic precautions, such as washing hands between patients, and also set forth more involved standards for infection control. Under the Act, all dentists are required to comply with the CDC guidelines. The only exception to this rule arises in an emergency situation that is life-threatening and where it is not feasible or practicable to comply with the guidelines.

Based on a complaint, the Board conducted an CDC inspection of the Respondent's office on March 2, 2000. The investigation involved an examination of the office, observations of the Respondent's CDC practices, and an interview with the Respondent. There was no emergency at the time of the inspection. The investigation revealed that, despite the CDC guidelines, the Respondent, *inter alia*, was not wearing gloves or a mask while treating a patient when the Board's investigator arrived to conduct the inspection, did not wash his hands before putting on gloves, put a glove on his left hand while leaving the

right hand bare and unwashed, continued treating a patient without washing his hands or replacing his gloves despite having answered a telephone call, using a pen, and sorting through paperwork, failed to have protective covers on required surfaces and apparatus, failed to appropriately dispose of medical waste, failed to label bio-hazardous materials, and failed to provide spore testing for his Dry Heat Machine. The investigation revealed other CDC violations, as well.

The Respondent's failure, as described above, to comply with CDC guidelines exponentially increases the probability of infecting his patients, instead of reducing the likelihood of cross-contamination as is the intention of the CDC guidelines.

Because the Respondent fails to comply with CDC guidelines in the manner that he does, he is putting his patients at risk. By the Respondent's failure to comply with CDC guidelines as further detailed below, the Respondent presents an immediate danger to his patients. As a result, allowing the Respondent to continue to practice dentistry on patients in Maryland poses a grave risk and imminent danger to the public health, safety, and welfare of the citizens of Maryland.

ALLEGATIONS OF FACT

The charges are based upon the following facts, which the Board has cause to believe are true:

1. The Respondent is, and at all times relevant hereto was, licensed to practice dentistry in the State of Maryland under License Number 2524. The Respondent has no employees.
2. Subsequent to a complaint, the Board caused a CDC inspection of the

Respondent's dental practice located at 7501 Liberty Road, Baltimore, Maryland, to be made on March 2, 2000. The inspection was made by two members of the Board staff, both of whom are trained in conducting CDC inspections.

3. The purpose of the inspection was to determine whether the Respondent was complying with the CDC guidelines for infection control. A copy of those guidelines is attached hereto.

4. The inspectors inspected the Respondent's office and operatory and observed his treatment of one patient.

5. The inspectors arrived at the Respondent's office at 9:20 a.m., on March 2, 2000. Upon arrival at the Respondent's office the inspectors observed the Respondent with a patient, who was in the dental chair. The Respondent was not wearing gloves or a mask.

6. After a brief discussion with the investigators, the Respondent re-entered the operatory and returned to the patient. The Respondent did not wash his hands or place gloves on his hands prior to resuming patient care. The Respondent was providing care to the patient using rusty instruments, without gloves, without a mask or other facial shield and while wearing glasses without side shields.

7. Shortly after resuming patient care, the Respondent again exited the operatory, and obtained a pair of latex gloves and a mask from the bottom drawer of his desk. However, the Respondent did not wash his hands prior to putting on the gloves, and the Respondent only put a glove on his left hand. The Respondent's right hand remained unwashed and bare while treating the patient. The Respondent wore the mask

around his neck at all times, rather than placing it over his face.

8. The Respondent did not wash his hands or change his gloves when he returned to treating the patient after answering a telephone call, using a pen, and sorting through paperwork on his desk.

9. After the patient left the Respondent's office, the Respondent did not wash his hands.

10. The Respondent had no record of his hepatitis B vaccine in the office, explaining that he received vaccination approximately 12 to 15 years ago and that the physician who inoculated him has since deceased.

11. The Respondent did not have protective covers on the required surfaces in the operatory. In addition, the inspectors observed dry blood spattered on the overhead light and other equipment in the operatory. Other surfaces in the operatory were dusty, dirty and clearly had not been disinfected for an extended period of time.

12. The Respondent did not dispose of his contaminated waste in appropriate bags. The Respondent advised that he places used needles, after breaking the needle in an old metal paint can located in a cabinet. The paint can was observed to be in a non-readily accessible area, was not labeled as bio-hazardous, was not closed or capped and was not maintained in an upright position.

13. The Respondent indicated that he does sterilize his instruments via dry heat. The Respondent was unable to state at what temperature or for how long the machine specifications required for appropriate sterilization. The Respondent does not provide spore testing for his Dry Heat machine, and has never had a contract with a company to

do so. The Respondent advised the inspectors that he was unaware of this requirement. The Respondent told the inspectors that he cleans the instruments with soap and water, places them in a plastic bag for instruments, and then places them in the dry heat machine.

14. The inspectors observed several drawers full of old, rusty instruments, as well as rust on the instruments that had just been used on a patient, which were lying on a preparation tray at the foot of the chair. In addition, an inspection of the office and operatory revealed that the Respondent had metal trays hanging on the wall, including some that were still covered with old wax and dust. The office and operatory were in complete disarray as evidenced by dirt, dust, and objects that were exposed, dirty, and unpackaged.

CONCLUSIONS OF LAW

Based on the foregoing investigative information, the Board finds that the public health, safety, and welfare imperatively require emergency action in this case, pursuant to Md. Code Ann., State Gov't § 10-226(c)(2) (1999 Repl. Vol.).

PROCEDURAL HISTORY

The Board issued a prior Order for Summary Suspension on March 3, 2000 and the Respondent was served with that Order on March 6, 2000. On March 15, 2000, the Board voted to issue this Amended Order for Summary Suspension which replaces the Board's March 3, 2000 Order.

ORDER

It is, by a quorum of the State Board of Dental Examiners pursuant to the authority

vested in the Board by Md. Code Ann., Health Occ. §§ 4-205(a)(6) and 4-315(a), and Md. Code Ann., State Gov't § 10-226(c)(2),

ORDERED that the ORDER FOR SUMMARY SUSPENSION of March 3, 2000 is hereby amended as set out in this Order and that the March 3, 2000 Order shall not be reported to the National Practitioner's Data Bank; and it is further

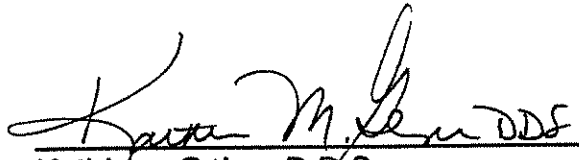
ORDERED the Respondent's license to practice dentistry in the State of Maryland is hereby **SUMMARILY SUSPENDED**; and it is further

ORDERED that the Respondent will be given an opportunity to Show Cause why his license should not be suspended at his previously scheduled Show Cause Hearing on **March 15, 2000, at 9:00 a.m.** before the Board at the Spring Grove Hospital Center, Tulip Drive, Benjamin Rush Building, Catonsville, Maryland 21228; and it is further

ORDERED that, if the Respondent's license remains suspended following a Show Cause Hearing, upon request by the Respondent, a hearing to consider this Summary Suspension will be held at the Office of Administrative Hearings, 11101 Gilroy Road, Hunt Valley, Maryland 21031, within a reasonably prompt time after the Respondent's request for such a hearing, and it is further

ORDERED that this Order is a public document pursuant to Md. Code Ann., State Gov't § 10-601 *et seq.* (1999 Repl. Vol.).

3-15-00
Date


Kathleen Geipe, D.D.S.
Board President

